

COMMERCIAL LEASE AGREEMENT

THIS COMMERCIAL LEASE AGREEMENT, dated as of July 27, 2006, is between 849 Wall Street, LLC, an Oregon Limited Liability Company, ("Lessor") and "Push" Salon, LLC, ("Lessee").

RECITALS

Lessor is the owner of the premises described below and desires to lease the premises to Lessee;

Lessee intends to open a full service salon and desires to locate the business in the premises owned by Lessor; and

The parties desire to enter a lease agreement defining their rights, duties, and liabilities relating to the premises.

In consideration of the matters described above, and of the mutual benefits and obligations set forth in this agreement, the parties agree as follows:

1. **DESCRIPTION OF PREMISES.** Lessor leases to Lessee the premises located at 849 NW Wall Street, Bend, Oregon, 97701, and more particularly described in Exhibit 1, which is attached to this Agreement and incorporated by this reference. The leased premises are of the westerly portion of the first floor of the building located at 849 NW Wall Street, Bend, Oregon, consisting of approximately 574 square feet of floor space, together with the cellar located below the westerly portion of the first floor. In addition, Lessee shall have the right in common with the other occupants of the building in which the premises are located, to use the first floor hallway.

2. **PURPOSE.** Lessee shall use the premises for the exclusive purpose of operating its full service salon on the premises.

3. **TERM OF LEASE.** Lessor leases the above-described premises for a term of five years, commencing on September 1, 2006, and terminating on August 31, 2011. Lessee's right to possession and obligations under the lease shall commence on September 1, 2006, or on such later date as an occupancy permit is obtained for the leasehold space from the City of Bend, Oregon. Lessor shall have no liability for delays in delivery of possession and Lessee will not have the right to terminate this lease because of delay in delivery of possession except as hereinafter provided. If Lessor is not able to give Lessee possession of the premises on or before November 1, 2006, Lessee may rescind the lease by Notice, in writing to the landlord, given at any time thereafter before the date on which possession is tendered by Lessor.

4. **RENTAL.** Lessee shall pay Lessor for the use and occupancy of the premises \$1300.00 per month, payable in advance, on the 1st day of each calendar month, beginning September 1, 2006, which rental rate shall continue for the first 12 months of this Lease. Thereafter the amount of monthly rental shall be increased by four percent (4%) per annum, for each succeeding 12 month period thereafter, for the remaining four years of this Lease.

Upon commencement of this Lease, Lessee shall pay Lessor the first and last months rental, for a total sum of \$2820.82 in addition to the security deposit provided herein.

5. ADDITIONAL RENT. All taxes, charges, costs, and expenses that Lessee assumes or agrees to pay under this agreement, together with all interest and penalties that may accrue in the event of the failure of Lessee to pay those items, and all other damages, costs, expenses, and sums that Lessor may suffer or incur, or that may become due, by reason of any default of Lessee or failure by Lessee to comply with the terms and conditions of this Lease agreement, shall be deemed to be additional rent, and in the event of nonpayment, Lessor shall have all the rights and remedies as provided in this Lease agreement for failure to pay rent.

6. MAINTENANCE OF COMMON AREA. Lessee shall at all times keep the common hallway clean and in good condition and repair, free from obstructions by Lessee, its agents or employees, or Lessee's invitees, and Lessee shall not use the hallway for any purpose other than ingress and egress from the premises.

7. IMPROVEMENTS BY LESSOR. Prior to Lessee's occupancy of the premises, Lessor shall, at Lessor's expense, sheetrock and tape the interior walls of the premises, leaving any final finish on the surface for completion by Lessee. Lessee shall accept the condition of the interior walls, as improved by Lessor, in their existing condition and state of repair, at the commencement of occupancy, without any claim against Lessor.

8. ALTERATIONS, ADDITIONS, AND IMPROVEMENTS BY LESSEE. Lessee may at any time during the lease term, at Lessee's own expense, make any alterations, additions, or improvements to the premises, to suit Lessee's needs, subject to the conditions set forth below:

(1) The plans and specifications for any alterations, additions or improvements shall be submitted to Lessor for written approval prior to commencing work;

(2) Alterations, additions or improvements, shall be performed in a satisfactory manner and shall not weaken or impair the structural strength, or lessen the value of the building on the demised premises, or change the purposes for which the premises or any part thereof, may be used;

(3) Before commencement of any work, all plans and specifications shall be filed with and approved by all governmental departments or authorities having jurisdiction and any public utility company having an interest in such matters, and all work shall be done in accordance with the requirements of local regulations;

(4) All alterations, additions, and improvements on or in the demised premises at the commencement of the term, and which may be erected or installed during the term, shall become part of the demised premises and the sole property of Lessor, except that all moveable trade fixtures installed by Lessee shall be and remain the property of Lessee; and

(5) Lessee shall not allow any liens, encumbrances or security interests to be placed on the property, as a result of any such alterations, additions or improvements.

9. REPAIRS. Lessee shall, at its own cost and expense, repair, replace and maintain in a good and safe condition, the leased premises, and any improvements, additions, and alterations to the premises, and shall use all reasonable precaution to prevent waste, damage or injury to the premises.

10. NO HAZARDOUS SUBSTANCES. Lessee shall not cause or permit any hazardous substance to be spilled, leaked, disposed of, or otherwise released on or under the premises. Lessee shall comply with all Environmental Laws.

11. TAXES. Lessee shall pay on or before the last day on which payment may be made without penalty or interest, all real property taxes, assessments, or other governmental charges that shall or may during the lease term be imposed on, or arise in connection with the use of the premises or any part thereof. Lessee shall promptly provide to Lessor, evidence of payment of such tax, or other governmental charge by Lessee, upon request of Lessor. Lessee shall pay all personal property taxes and assessments and all business taxes and license fees.

12. UTILITIES. All applications and connections for necessary utility services on the premises shall be made in the name of Lessee only. Lessee shall be solely liable for utility charges as they become due, including, but not limited to, those for sewer, water, gas, electricity, and telephone services.

13. RESTRICTIONS ON USE. Lessee's use of the premises shall be limited as follows:

(1) Lessee shall not do or permit anything to be done on or about the premises that will obstruct or interfere with the rights of other tenants or occupants of the building in which the premises are located, or injure or annoy them;

(2) Lessee shall not use or allow the premises to be used for any activity that is unlawful or ultrahazardous, nor shall Lessee cause, maintain, or permit any nuisance in, on, or about the premises or common areas;

(3) Lessee shall limit its hours of operation to between 9:00 a.m. and 9:00 p.m. so as not to interfere with other tenants or occupants of Lessor's building; and

(4) Lessee shall not use any permanent wave hair solutions on the premises.

14. SECURITY DEPOSIT. Lessee shall deposit \$1200.00 with Lessor, which amount shall be held by Lessor as security for the full and timely performance by Lessee of the terms and conditions of this Lease and for the payment of any final judgment that may be rendered against Lessee for a breach of those terms and conditions. The rights of Lessor against Lessee for a breach of this Lease shall in no way be limited or restricted by the security deposit. Lessor shall have the absolute right to pursue any available remedy to protect its interests, as if this security deposit had not been made.

The security deposit shall be returned to Lessee at the expiration of this Lease agreement, provided that all the terms and conditions contained in this Lease agreement have been fully performed by Lessee.

15. LIABILITY INSURANCE. At all times during the term of this Lease, Lessee shall obtain and maintain, at Lessee's expense, a commercial general liability policy, with coverage for bodily injury and property damage liability, with a general aggregate limit of not less than \$1,000,000 and a per occurrence limit of not less than \$1,000,000. Such insurance shall cover all risks arising directly or indirectly out of Lessee's activities on or any condition of the premises whether or not related to an occurrence caused or contributed to by Lessor's negligence. Such insurance shall protect Lessee against the claims of Lessor on account of the obligations assumed by Lessee under Section 16, and shall name Lessor as an additional insured. Certificates evidencing such insurance and bearing endorsements requiring 10 days written notice to Lessor prior to any change or cancellation shall be furnished to Lessor prior to Lessee's occupancy of the premises.

16. OTHER INSURANCE. At all times during the term of this Lease, Lessor shall keep the premises insured against fire and other risks covered by a standard fire insurance policy, with an endorsement for extended coverage. Lessee shall reimburse Lessor for Lessee's prorated share (based on square footage of lease space) of the premium.

17. INDEMNITY. Lessee shall indemnify, defend and hold Lessor harmless against any and all expenses, liabilities, and claims of every kind, including reasonable attorney fees, by or on behalf of any person or entity arising out of either:

- (1) a failure by Lessee to perform any of the terms or conditions of this Lease agreement;
- (2) any injury or damage happening on or about the premises;
- (3) failure to comply with any law of any governmental authority; or
- (4) any lien, encumbrance or security interest filed against the premises or equipment, materials, or alterations of the building or improvements on the premises.

18. DEFAULT. Each of the following events shall constitute a default or breach of the Lease agreement by Lessee:

- (1) If Lessee files for voluntary bankruptcy, is placed in receivership, or has involuntary bankruptcy proceedings instituted against it by creditors;
- (2) If Lessee fails to pay Lessor any rent or additional rent when the rent is due and fails to make the payment within thirty (30) days after notice by Lessor to Lessee;
- (3) If Lessee fails to comply with any of the conditions of this Lease agreement and if the nonperformance continues for thirty (30) days after notice of nonperformance given by Lessor to Lessee, or if the performance cannot be reasonably had within the thirty (30) day period, Lessee fails to in good faith, commence performance within the thirty (30) day period and fails to diligently proceed to completion of performance;
- (4) If Lessee vacates or abandons the premises; or
- (5) If Lessee assigns this Lease in violation of the terms of this Lease.

19. LESSOR'S REMEDIES ON DEFAULT. In the event of any default under this Lease agreement, the rights of Lessor shall include the following:

(1) Lessor shall have the right, at Lessor's option, to terminate the Lease by thirty (30) days prior written notice to Lessee. Upon termination, Lessor shall be entitled to recover damages from Lessee for the default, and Lessor may reenter, take possession of the premises and remove any persons or property by legal action or by self-help with the use of reasonable force and without liability for damages. No such action by Lessor shall be deemed an acceptance of a surrender;

(2) Lessor may relet the premises or any part of the premises for any term without terminating this Lease agreement, at the rent and on the terms as Lessor may choose. Lessor may make alterations and repairs to the premises. The duties and liabilities of the parties if the premises are relet, shall include:

(a) In addition to Lessee's liability to Lessor for breach of the lease, Lessee shall be liable for all expenses of the reletting, for the alterations and repairs made, and for the difference between the rent received by Lessor under the new lease agreement and the rent installments that are due for the same period under this Lease agreement;

(b) Lessor shall have the right, but shall not be required, to pay the rent received from reletting the premises to: (1) reduce the indebtedness of Lessee to Lessor under this Lease agreement, not including indebtedness for rent; (2) expenses of the reletting and alterations and repairs made; (3) rent due under this Lease agreement; or (4) to payment of future rent under this lease agreement as it becomes due;

(c) Lessor may sue as each installment comes due without waiting.

(3) Any and all remedies provided to Lessor for the enforcement of the provisions of this Lease agreement are cumulative and not exclusive, and Lessor shall be entitled to pursue either the rights enumerated in this Lease agreement or remedies authorized by law, or both; and

(4) Lessee shall be liable for any costs or expenses incurred by Lessor in enforcing any terms of this Lease agreement, or in pursuing any legal action for the enforcement of Lessor's rights.

20. ASSIGNMENT AND SUBLEASE. Lessee shall not assign this Lease agreement or sublet the premises to another party without the express written approval of Lessor. Any such assignment or sublease in violation of this section shall be deemed a default of this Lease agreement.

21. CONDEMNATION. This Lease agreement shall terminate in the event of a total condemnation of the premises by an authorized governmental agency. A partial condemnation of the premises shall only terminate this Lease agreement at the option of the Lessor, but if Lessor elects to continue this Lease agreement, Lessee shall be entitled to a partial abatement of rent proportionate to the loss of use in the demised premises suffered by Lessee.

In the event of any taking or condemnation in whole or in part, the entire resulting award of consequential damages shall belong to Lessor without any deduction from such award for the value of the unexpired term of this Lease agreement or for any other estate or interest in the premises. Lessee assigns to Lessor, all of its right, title, and interest in any and all of such awards.

22. HOLDING OVER. Lessee shall pay to Lessor a monthly sum equal to the rent specified in this Lease, plus 50% of such amount for each month that Lessee

holds the premises after expiration or termination of this Lease agreement without authorization by Lessor. This sum shall be liquidated damages for the wrongful holding over. Lessee shall acquire no additional rights, title or interest to the premises by holding the premises after termination or expiration of this Lease agreement. Lessee shall be subject to legal action by Lessor to obtain the removal of Lessee in the event of any such holding over.

23. CONDITION OF THE PREMISES. At the commencement of the Lease, Lessee shall accept the building and improvements and any equipment in their existing condition and state of repair, and Lessee agrees that no representations, statements, or warranties, express or implied, have been made by or on behalf of Lessor in respect to the buildings, improvements and equipment, except as contained in the provisions of this Lease agreement. Lessor shall in no event be liable for any latent defects.

24. ACCESS TO PREMISES. Lessee shall permit Lessor to enter the premises at all reasonable hours to inspect the premises or make repairs that Lessee may neglect or refuse to make in accordance with the provisions of this Lease agreement, and also to show the premises to prospective buyers. The Lessor's right to enter and inspect the premises is made to insure that Lessee is in compliance with the terms and conditions of this Lease agreement and to insure that Lessee makes repairs, which Lessee has failed to make. Lessor shall not be liable to Lessee for any entry on the premises for inspection purposes.

25. QUIET ENJOYMENT. Lessor warrants that Lessee shall be granted peaceable and quiet enjoyment of the demised premises free from any eviction or interference by Lessor if Lessee pays the rent and other charges provided in this Lease agreement, and otherwise fully and punctually performs the terms and conditions imposed on Lessee. Irrespective of this paragraph, Lessee understands that Lessor will be completing construction of the floors above the lease hold premises and consents to the noise, dust, and commotion which will result during this construction.

26. NONLIABILITY OF LESSOR. Lessee shall be in the exclusive control and possession of the premises, and Lessor shall not be liable for any injury or damages to any property or to any person on or about the premises or to any injury or damage to any property of Lessee, regardless of whether the damage occurring on the premises is the cause of a force from inside or outside the premises.

27. WAIVER. Waiver by Lessor of any breach of any covenant or duty of Lessee under this Lease is not a waiver of a breach of any other covenant or duty of Lessee, or of any subsequent breach of the same covenant or duty.

28. NOTICES. All notices provided to be given or made by either party to the other, shall be deemed to have been fully given or made, when made in writing and deposited in the United States mail, certified mail, return receipt requested, and addressed as follows:

Lessor: 849 Wall Street, LLC
[REDACTED]
[REDACTED]
[REDACTED]

Lessee: Theresa Barber
"Posh" Salon, LLC
[REDACTED]
Bend, OR 97709

29. PERSONAL GUARANTY OF LESSEE'S OBLIGATIONS. The privilege is granted to Lessee to have this Lease agreement to be made between Lessor and Lessee, a newly formed entity, provided however, that Del Barber, Jr. and Theresa Barber, the Members, of "Posh" Salon, LLC shall execute a personal guarantee of the performance by Lessee of all of the terms, provisions, and conditions set forth in this Lease agreement, in writing upon execution of this Lease agreement.

30. ARBITRATION. Any dispute, controversy, or claim arising out of or relating to this Agreement will be settled by arbitration. Unless the parties otherwise agree, the arbitration will be administered by Arbitration Services of Portland. Judgment on the award rendered by the arbitrator may be entered in the circuit court in the county in which the arbitration occurs, and the resolution of the disputed matter as determined by the arbitrator will be binding on the parties. In the event Lessee has a dispute with another Lessee of Lessor, then this paragraph shall apply and the exclusive arbitrator shall be Carl W. Hopp, Jr., whose fees shall be paid one-half by each Lessee.

31. ATTORNEY FEES. In the event a party to this Agreement brings any action, suit or arbitration, against another party to this Agreement by reason of any breach of any of the covenants, agreements, or provisions on the part of the other party arising out of this Agreement, then in that event the prevailing party shall be entitled to have and recover from the other party all costs and expenses of the action, suit, or arbitration including actual attorney fees, at hearing, trial and on appeal.

32. SURRENDER OF POSSESSION. Lessee shall, on the last day of the term, or on earlier termination and forfeiture of this Lease agreement, peaceably and quietly surrender and deliver the premises to Lessor free of subtenancies, including all improvements and additions, except movable trade fixtures, all in good condition and repair.

If Lessor so elects, any trade fixtures or personal property not used in connection with the operation of the premises and belonging to Lessee, if not removed at the termination of this Lease agreement, shall be deemed abandoned and become the property of Lessor without any payment or offset for such fixtures or property from the premises.

Lessee shall repair and restore all damage to the premises caused by the removal of equipment, trade fixtures, and personal property.

33. **ENTIRE AGREEMENT.** This Lease agreement shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this Lease agreement shall not be binding upon either party except to the extent incorporated in this Lease agreement.

34. **MODIFICATION.** Any modification of this Lease agreement or additional obligation assumed by either party in connection with this Lease agreement shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party.

35. **REPRESENTATION.** Carl W. Hopp, Jr., has prepared this lease on behalf of the Lessor and Lessee has been advised to obtain counsel to review the lease on its behalf. No construction of the lease shall be presumed against the Lessor solely because his attorney drafted the lease.

IN WITNESS WHEREOF, the parties have caused this Lease Agreement to be duly effective and executed on the date first written above.

LESSOR:

849 WALL STREET, LLC

By: 

Title: Manager

Dated: 7/27/06

LESSEE:

By: Del Barber, Jr.

Title: Member, "Posh" Salon, LLC

Dated: 7/27/06

By: Theresa Barber 

Title: Member, "Posh" Salon, LLC

Dated: _____